

August 27, 1996

TO: All Parties, Intervenors and
Participants

SENT BY FACSIMILE TO OFFICIAL
SERVICE LIST

RE: In the Matter of AT&T Communications of the Midwest, Inc.'s (AT&T's) and MCImetro Access Transmission Services, Inc.'s (MCImetro's) Consolidated Petitions for Arbitration with U S West Communications, Inc. (U S West) Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996,; OAH Docket No. 9-2500-10697-2; MPUC Docket Nos. P-442,421/M-96-855 and P-5321,421/M-96-909

Dear Counsel, Parties and Participants:

This letter will constitute the Prehearing Order resolving procedural matters resolved at the August 19, 1996 prehearing conference in the above matter. The following appearances were made: John B. Van de North, Jr., Mark J. Ayotte, Rebecca DeCook and JoAnn Anderson appeared on behalf of AT&T; Amy Klobuchar appeared on behalf of MCImetro; David G. Seykora and Beth Halvorson appeared on behalf of U S West; Ellen Gavin, J. Jeffrey Oxley and Susan Peirce appeared on behalf of the Department of Public Service (DPS); Eric F. Swanson, Eric Peck and Garth Morrisette appeared on behalf of the Office of the Attorney General, Residential and Small Business Utilities Division OAG/RUD; Kristine Eiden and Gina Doyscher appeared on behalf of Frontier Telemanagement, Inc. (Frontier); and Dan Lipschultz and Mark Fornier appeared on behalf of the staff of the Minnesota Public Utilities Commission.

1. Pursuant to the Commission's Order dated August 9, 1996, AT&T and U S West are Parties to the arbitration consistent with Section 252(b) (1) of the Telecommunications Act of 1996.

2. Pursuant to the Commission's Order dated August 26, 1996, MCImetro and U S West are Parties to the arbitration consistent with Section 252(b) (1) of the Telecommunications Act of 1996.

3. Pursuant to the Commission's Order dated August 26, 1996; the Petitions of AT&T and MCImetro are consolidated consistent with Section 252(g) of the Telecommunications Act of 1996.

4. The DPS and the OAG/RUD have requested the right to intervene in this matter. Their requests to intervene as Parties are granted consistent with the Commission's Orders dated August 9 and August 26, 1996. The DPS and the OAG/RUD have all the rights and responsibilities of a full party.

5. Frontier, Sprint Communications Company (Sprint) and United Telephone Company (United) have all requested and are granted Participant status in this matter consistent with the Commission's Orders dated August 9 and 26, 1996.

- a) Participants may attend all hearings and prehearing conferences as observers but will not be permitted to offer testimony or evidence in the arbitration proceeding.
- b) Participants shall have access to all written information, including proprietary information and cost studies, that is submitted into evidence at the arbitration hearing, if they sign a protective agreement pursuant to a Protective Order. They are subject to the same requirements as the Parties with respect to confidential or proprietary data.
- c) Participants shall also be served with all prefiled testimony, written briefs, proposed findings and decision, and exceptions filed with the ALJ or Commission. The Participants shall also receive all hearing notices and a copy of the Recommended Arbitration Decision.
- d) Participants will be permitted to submit to the ALJ post hearing written argument with respect to the issues as developed at the arbitration hearing. This argument must be based upon facts in the record of the arbitration hearing.
- e) The Participants shall **not** have access to any discovery requests or responses unless that data is later offered into the arbitration record.

6. The arbitration hearing will commence on October 7, 1996 and shall conclude by October 15, 1996 **It is necessary to limit the hearing days to seven (7) due to the December 2, 1996 final decision deadline ordered by the Commission.** The hearing will take place in the small hearing room at the Minnesota Public Utilities Commission commencing at 9:30 a.m. A "real time" court reporter from Janet Shaddix and Associates will be used and a transcript of the proceeding will be prepared.

Alternate 6. The arbitration hearing will be held during the weeks of September 30 through October 4 and October 7 through October 11, 1996. (ten (10) hearing days). (This alternate schedule assumes ALJ Giles will continue the "Centron" hearing to the week of October 28 through November 1, 1996)

7. Discovery will require quick turnaround and quick decisions of disputes. Parties will have seven (7) calendar days to respond to discovery requests, but if the last day is a Saturday, Sunday or holiday, then the response shall be due the next business day. Responses must be **delivered** on the appropriate day, not mailed. Requests must be received by 4:30 p.m. in order to be counted as received on that day. Discovery shall be completed by September 30, 1996, except with respect to discovery requests on DPS and OAG/RUD which shall be completed by October 4, 1996. Completion of discovery means that all responses must be received by the requesting party by the close of discovery. The Parties shall be limited to 50 questions per party.

8. All Parties shall prefile written testimony in question and answer format. Direct testimony prefiled by U S West , MCImetro and AT&T must be received by the ALJ, Commission, other Parties and Participants by 4:30 p.m. on September 20, 1996. (The Testimony of AT&T will be in the nature of supplemental testimony to its initial

petition which included prefiled direct testimony.) All rebuttal testimony must be received by the ALJ, Commission, other Parties and Participants by 4:30 p.m. on September 27, 1996. The DPS and OAH/RUD shall deliver and file their initial testimony on to the ALJ, Commission, other Parties and Participants by 4:30 p.m. on September 27, 1996.

9. AT&T, MCImetro and U S West shall keep the ALJ, Commission, DPS and RUD/OAG updated with regard to what issues have been resolved and what issues remain open. AT&T, MCImetro and U S West must file with the ALJ by October 4, 1996 a list of all the disputed issues, the Parties' positions on each issue, and reference to the specific FCC rules and state requirements that apply to each issue. The DPS and OAH/RUD must notify the ALJ, Commission, and other Parties and file with the ALJ a list of any changes in their positions from those asserted in their prefiled testimony by October 4, 1996.

10. Post trial briefs and proposed findings and decision (Draft Order) on each issue, and a proposed schedule for implementation by the negotiating parties must be received by the ALJ, Commission, other Parties and Participants by 12:00 p.m. (Noon) on Monday, October 21, 1996 **The initial briefing period has been reduced to five (5) days to accommodate the Commission's final decision deadline of December 2, 1996 .** Written replies must be received by the ALJ, Commission, other Parties and Participants by 12:00 p.m. (Noon) on October 24, 1996. **The reply briefing period has been reduced to three (3) days.**

11. The Administrative Law Judge will issue the Recommended Arbitration Decision by November 5, 1996.

12. The next prehearing conference in this matter will take place on Thursday, August 29, 1996 commencing at 10:00 a.m. in the Commission's Small Hearing Room, 121 7th Place East, Suite 350, St. Paul, Minnesota. Parties should be prepared to discuss any modifications to this prehearing schedule, including consideration of starting the arbitration hearing on September 30, 1996 in the event the "Centron" matter pending before ALJ Giles is continued to October 28 through November 1, 1996.

13. Attached to this correspondence is the Official Service List. The Commission Procedural Rules govern the filing of documents in this case, unless modified by this Order.

- a) The Parties shall file with the Commission's Executive Secretary fifteen (15) copies of all documents except proprietary copies, which should number nine (9), which are submitted to the ALJ for distribution among Commissioners and Commission staff by delivering, mailing or faxing to:

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350

St. Paul, MN 55101-2147

- b) Prior to the issuance of the Proposed Arbitration Decision of the ALJ, the original document and one (1) copy shall be filed with the ALJ by delivering, mailing or faxing to:

The Honorable Phyllis A. Reha
Minnesota Office of Administrative Hearings
100 Washington Square
Suite 1700
Minneapolis, MN 55401-2138

- c) Following the Recommended Arbitration Decision, original documents shall be filed with the Executive Secretary of the Commission. A copy may be filed with the ALJ.
- d) One (1) copy shall be served personally, by mail or by fax on the attorney for each Party and Participant of record.
- e) One (1) copy shall be served personally, by mail or by fax on the additional individuals as identified on the Official Service List which is attached.

f) Four (4) copies shall be served personally, by mail or by fax on:

Linda Chavez
Minnesota Department of Public Service
121 Seventh Place East, Suite 200
St. Paul, MN 55101-2145

g) Proof of Service shall be filed with each filed document. Prefiled testimony and other documents of more than 25 pages in length should be delivered or mailed by overnight carrier rather than transmitted by facsimile transmission

Sincerely,

PHYLLIS A. REHA
Administrative Law Judge

Telephone: 612/341-7602

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